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# UNITED STATES DEPARTMENT OF AGRICULTURE

## AGRICULTURAL MARKETING SERVICE COTTON DIVISION

Service and Regulatory Announcement No. A.M.S. 153

### REGULATIONS OF THE DEPARTMENT OF AGRICULTURE UNDER THE UNITED STATES COTTON STANDARDS ACT

### REGULATIONS OF THE DEPARTMENT OF AGRICULTURE FOR CLASSIFICATION FOR FOREIGN GROWTH COTTON AND COTTON LINTERS

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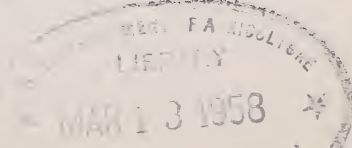
### UNITED STATES COTTON STANDARDS ACT

(Title 7, Ch. I, Part 28, Sections 28.1-28.184 of the Code of Federal Regulations)

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## SUBPART A—REGULATIONS UNDER THE UNITED STATES COTTON STANDARDS ACT

### DEFINITIONS

Sec. 28.1 Meaning of words. Words used in this part in the singular form shall be deemed to import the plural, and vice versa, as the case may demand.

Sec. 28.2 Terms defined. As used throughout this subpart, unless the context otherwise requires, the following terms shall be construed, respectively, to mean:

(a) The act. The United States Cotton Standards Act, approved March 4, 1923 (42 Stat. 1517; 7 U.S. C. 51 et seq.) with such amendments as may be made from time to time.

(b) Regulations. Regulations mean the provisions in this subpart.

(c) Department. The United States Department of Agriculture.

(d) Secretary. The Secretary of Agriculture of the United States or any officer or employee of the Department to whom authority has heretofore been delegated or to whom authority may hereafter be delegated, to act in his stead.

(e) Service. The Agricultural Marketing Service of the United States Department of Agriculture.

(f) Deputy Administrator. The Deputy Administrator for Marketing Services, or any officer or employee of the Service, to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

(g) Division. The Cotton Division of the Agricultural Marketing Service.

(h) Director. The Director of the Division or any officer or employee of the Division to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated by the Director to act in his stead.

(i) Board. Board of cotton examiners.

(j) Cotton examiner. An officer of the Department so designated by the Director

(k) License. A license issued under the act by the Secretary.

(l) Licensed classer. A person licensed under the act by the Secretary to classify cotton according to the official cotton standards of the United States and to certificate the classification of the same.

(m) Cotton. The word "cotton" as used in the act means cotton of any variety produced within the continental United States, including linters. In this subpart, for administrative convenience, the word "cotton" is used to signify vegetable hair removed from cottonseed in the usual process of ginning, and the word "linters" as defined in paragraph (n) of this section.

(n) Linters. Vegetable hair removed from cottonseed subsequent to the usual process of ginning.

(o) Upland cotton. All cotton grown anywhere within the continental United States including the growths sometimes referred to as Upland, Gulf, and Texas cotton, but excluding the Sea Island and American Egyptian growths.

(p) Official cotton standards. Official cotton standards of the United States for the grade of American upland cotton, American Egyptian cotton, and Sea Island cotton, and for length of staple, adopted by or established pursuant to the act, or any change or replacement thereof.

(q) Universal standards. The official cotton standards of the United States for the grade of American upland cotton.

(r) Person. Individual, association, partnership, or corporation, or two or more individuals having a joint or common interest.

(s) Owner. Person who through financial interest, owns, controls, or has the disposition either of cotton or of samples.

(t) Custodian. Person who has possession or control of cotton or of samples, as agent, controller, broker, or factor, as the case may be.

(u) State. A State, Territory, or district of the United States.

## ADMINISTRATIVE AND GENERAL

Sec. 28.3 Director. The Director shall perform for and under the supervision of the Secretary and the Deputy Administrator, such duties as the Secretary or the Deputy Administrator may require in enforcing the provisions of the act and the regulations issued thereunder.

Sec. 28.4 Boards of cotton examiners. Boards of cotton examiners shall be maintained at points designated for the purpose by the Deputy Administrator. A board of supervising cotton examiners shall be constituted for duty as assigned; and an Appeal Board of Review Examiners shall be constituted to which may be referred requests for the review of the classification and/or comparison of cotton performed by other boards appointed in accordance with this section. The Appeal Board of Review Examiners shall be located at Memphis, Tennessee, except when the Director shall require that committees of the board meet to perform its functions elsewhere. The members of all boards and the chairman of each shall be designated for the purpose by the Director.

Sec. 28.5 Secretary, board of cotton examiners. The Director shall designate a secretary for each board. It shall be the duty of the secretary of the board to receive all correspondence relating to the classification of cotton under the act and to see that all samples are prepared for classification and/or comparison in such manner that the name of the owner and/or the custodian shall be unknown to the members of the board, who are detailed to classify or compare the cotton until after the samples are classified.

Sec. 28.6 Acting secretary of board. In the event of the absence or incapacity of the secretary of the board the chairman of the board shall designate temporarily an acting secretary of the board in his stead. Any person thus designated shall be thereby disqualified to act as a member of the board in the classification of cotton during the term of such temporary appointment.

Sec. 28.7 Chairman of board; responsibility. Subject to this subpart and the instructions of the Director the chairman of each board shall be responsible for the proper performance of the duties imposed on such board and on the persons connected therewith.

Sec. 28.8 Classification of cotton; determination. For the purposes of the act, the classification and comparison of any cotton, samples, or types submitted to the Department shall be determined or made only by cotton examiners properly qualified and designated as such by the Director, and the certificate of a board of cotton examiners with respect to any cotton shall be deemed to be the certificate of the Department.

Sec. 28.9 Inspection; sampling; classification. The inspection, sampling, and classification of cotton and cotton linters in the United



States pursuant to the act shall be performed as prescribed in this subpart. Subject in general to the provisions of this subpart the Director may issue from time to time instructions for the sampling, classification, and issuance of classification memoranda for cotton or cotton linters classed for special programs and other Government agencies, including the review of any classification performed pursuant to sections 28.901 through 28.919.

#### REQUESTS FOR CLASSIFICATION AND COMPARISON

Sec. 28.15 Classification and comparison; requests. All requests for classification and comparison shall be in writing on a form supplied by the Division and shall contain such information as the Director may require. For each lot or mark of cotton which the applicant desires classified or compared separately he shall specify which of the following forms of service is desired:

(a) Form A determination. The classification or comparison of samples freshly drawn and submitted to a board of cotton examiners direct from a public warehouse, at the request of the owner of the cotton or his agent. Such classification or comparison shall be evidenced by a Form A memorandum which shall be subject to review as provided in section 28.66.

(b) Form C determination. The classification of bales of cotton inspected and sampled under the supervision of an employee of the Division. The classification in such cases shall be evidenced by a Form C certificate which shall be subject to review as provided in section 28.66.

(c) Form D determination. The classification or comparison of samples submitted by the owner of the cotton or his agent. Such classification or comparison shall be evidenced by a Form D memorandum which shall be subject to review as provided in section 28.66.

Sec. 28.16 Request for return of samples. Any applicant desiring return of the samples after classification or comparison is completed, at his expense, shall indicate this service on the form used for requesting such classification or comparison.

Sec. 28.17 Filing of requests for classification or comparison. All requests for classification or comparison leading to Form A memoranda and Form C certificates shall be filed with the secretary of the board which serves the territory in which the cotton is located. All requests for classification or comparison leading to Form D memoranda shall be filed with the secretary of the board which serves the territory in which the samples are located. Samples which are submitted to any board for classification or comparison may be referred by such board to another board for classification or comparison.

Sec. 28.18 One request only for classification. Not more than one request each for a Form A determination, or a Form C determination, or a Form D determination of the same cotton, except a request for a review determination, shall be filed by the same owner within any 30-day period. Any subsequent request shall be accompanied by redrawn samples and the chairman of the board may require that any Form A or Form D memoranda, Form C certificates, or other classification data previously issued by a board with respect to samples purporting to represent the same cotton shall be returned before such redrawn samples are classed.

Sec. 28.19 Withdrawal or rejection of classification request. Any classification request may be withdrawn by the applicant at any

time before the classification of the cotton covered thereby, subject to the payment of such fees, if any, as may be prescribed in these regulations. Any classification request may be rejected by the chairman of the board or the Director for noncompliance with the act or this subpart.

#### DRAWING, SUBMISSION AND DISPOSITION OF SAMPLES FOR FORM A, FORM C, AND FORM D DETERMINATIONS

Sec. 28.25 Drawing of samples. (a) Each sample to be submitted for Form A, C, or D determination shall be approximately 6 ounces in weight, not less than 3 ounces of which are to be drawn from each side of the bale. Each sample must be representative of the bale from which drawn. Samples shall not be dressed or trimmed and shall be carefully handled in such manner as not to cause loss of leaf, sand, or other material, or otherwise change their representative character. Any sample or set of samples which does not meet these requirements may be rejected by the chairman of a board.

(b) Samples to be submitted for Form A determination shall be drawn under the supervision of a public warehouseman and shall be delivered immediately to the secretary of the board by such warehouseman. The samples shall not be handled by any person other than the sampling agent prior to shipment or delivery to the secretary of the board.

(c) Samples to be submitted for Form C determination shall be drawn under the supervision of a Division employee who shall retain custody or control of the samples until they are shipped or delivered to the secretary of the board.

Sec. 28.26 Submission of samples. Samples of cotton submitted to a board of cotton examiners for classification and/or comparison shall be delivered to the secretary of the board with which the request was filed, as soon as possible after the filing of such request. All transportation charges incident to the submission of samples for Form A, Form C, and Form D determinations shall be prepaid by the person making the request or his agent.

Sec. 28.27 Preparation of samples. For each sample to be submitted for classification a tag or coupon showing the bale number from which the sample was drawn shall be inserted between the two halves of the sample. The samples shall be enclosed in one or more wrappers, which shall be labeled or marked, or both, in such manner as to show the name and address of the owner, the lot number or marks, if any, the number of bales represented by the samples contained in each wrapper, and such other information as may be necessary in accordance with the instructions of the chairman of the board or of the Director. Each sample of sandy or dusty cotton shall be enclosed in a separate wrapper.

Sec. 28.28 Lost or damaged samples. If any samples are lost, damaged, or mutilated, or are received in packages arriving in a condition which may be considered to alter the representative character of the sample, the secretary of the board shall note all the facts, including the number of missing samples and the tag numbers identifying the samples received, and shall so inform the person who made the request.

Sec. 28.29 Return of samples. When so stipulated in the classification request for a Form A, C, or D determination, the samples submitted shall be returned to the person making the request, at his expense, at the time the memorandum is issued or when the request for classification is withdrawn or rejected.



Sec. 28.30 Samples not removed, property of Department. Samples not removed in accordance with this subpart and loose cotton separated from samples in the handling and classification thereof shall become the property of the Government and shall be disposed of in accordance with law and applicable regulations.

### CLASSIFICATION

Sec. 28.35 Method of classification. All cotton samples shall be classified on the basis of the official cotton standards of the United States in effect at the time of classification.

Sec. 28.36 Order of classification. All samples for which classification requests are pending shall be classified, as far as practicable, in the order in which the samples are delivered for classification. When in the opinion of the chairman of the board an emergency exists, he shall designate which samples will be given priority in classification.

Sec. 28.37 Exposing of samples for classification. Classification shall not proceed until the samples, after being delivered to the board, shall have been exposed for such length of time as in the judgment of the chairman shall be sufficient to put them in proper condition for the purpose.

Sec. 28.38 Lower grade (of two samples) to determine classification. If a sample drawn from one portion of a bale is lower in grade or shorter in length than one drawn from another portion of such bale, except as otherwise provided in this subpart, the classification of the bale shall be that of the sample showing the lower grade or shorter length.

Sec. 28.39 Cotton reduced in value; effect. If cotton be reduced in value, by reason of the presence of extraneous matter of any character or irregularities or defects below its grade or below its apparent length of staple according to the official cotton standards of the United States, the grade or length of staple from which it is so reduced, and the grade or length of staple to which it is so reduced, and the quality or condition which so reduces its value shall be determined and stated.

Sec. 28.40 Terms defined; cotton classification. For the purposes of classification of any cotton or of its comparison with a type or other samples, the following terms shall be construed, respectively, to mean:

(a) Cotton of perished staple. Cotton that has had the strength of fiber, as ordinarily found in cotton, destroyed or unduly reduced through exposure to the weather either before picking or after baling, or through heating by fire, or on account of water packing, or by other causes.

(b) Cotton of immature staple. Cotton that has been picked and baled before the fiber has reached a normal state of maturity, resulting in a weakened staple of inferior value.

(c) Gin-cut cotton. Cotton that shows damage in ginning through cutting by the saws, to an extent that reduces its value more than two grades.

(d) Reginned cotton. Cotton that has passed through the ginning process more than once, and cotton that, after having been ginned, has been subjected to a cleaning process and then baled.

(e) Repacked cotton. Cotton that is composed of factors', brokers', or other samples, or of loose or miscellaneous lots collected and rebaled, or cotton in a bale which is composed of cotton from two or more smaller bales or parts of bales.

(f) False packed cotton. Cotton in a bale (1) containing substances entirely foreign to cotton; (2) containing damaged cotton in the interior with or without any indication of such damage upon the exterior; (3) composed of good cotton upon the exterior and decidedly inferior cotton in the interior, in such manner as not to be detected by customary examination; or (4) containing pickings or linters worked into the bale.

(g) Mixed packed cotton. Cotton in a bale which, in the samples drawn therefrom, shows (1) a difference of three or more grades, or (2) a difference of three or more color gradations, or (3) a difference of two or more grades and two or more color gradations, or (4) a difference in length of staple of one-eighth inch or more.

(h) Water-packed cotton. Cotton in a bale that has been penetrated by water during the baling process, causing damage to the fiber, or a bale that through exposure to the weather or by other means, while apparently dry on the exterior has been damaged by water in the interior.

### SAMPLE OR TYPE COMPARISON

Sec. 28.45 Scope of comparison; requests. A comparison of cotton samples with a type may be requested with respect to grade, or to staple, including any of the component qualities embodied in the grade, or to all these factors. The classification of the type and the samples in accordance with the official cotton standards of the United States may also be requested. The applicant must specify in his written request the scope of service he desires.

Sec. 28.46 Method of submitting samples and types. The method of submitting samples and types for comparison shall be the same as that prescribed in this subpart for submitting samples for classification.

Sec. 28.47 Statement of finding of board in comparisons. For each quality factor (grade, staple, etc.) of the samples that the applicant has requested to be compared to the type, the board shall state in its findings whether such quality factor for each sample is "better," "equal," or "deficient" in comparison with the type. When appropriate, the findings of the board may also show the amount of difference in grade and in length between the sample and the type as measured by the official cotton standards of the United States, and other explanatory notations as needed.

### CERTIFICATES AND MEMORANDA

Sec. 28.55 Issuance of memoranda and certificates. As soon as practicable after the classification of cotton has been completed by a board of cotton examiners, there shall be issued a cotton class memorandum or certificate of the appropriate kind showing the results of such classification. Upon request from an applicant, classification results may be issued in preliminary form on record sheets.

Sec. 28.56 Form A and Form D memoranda. (a) When a classification and/or comparison has been made of any samples submitted to a board of cotton examiners direct from a public warehouse, the results of such classification and/or comparison may be stated in a Form A memorandum.

(b) When a classification and/or comparison has been made of any samples submitted by the owner of the cotton or his agent, the



results of such classification and/or comparison may be stated in a Form D memorandum.

(c) Form A and Form D memoranda shall not be deemed to be final certificates within the meaning of section 4 of the act (42 Stat. 1517; 7 U. S. C. 54).

Sec. 28.57 Form C certificate. When classification has been made of cotton inspected and sampled under supervision of a Division employee there shall be issued a cotton class certificate known as a Form C certificate. Each Form C certificate shall show the true classification of the cotton in the respects specified in the request. Such certificate, when it has been once reviewed in accordance with section 28.66, shall be deemed to be a final certificate as to the classification shown, within the meaning of section 4 of the act (42 Stat. 1517; 7 U. S. C. 54), in all cases except when superseded by a certificate or award made as provided in section 28.161.

Sec. 28.58 New memorandum or certificate; issuance. Upon the written request of a holder of a cotton class memorandum or certificate issued under this subpart, a new memorandum or certificate shall be issued, without the reclassification of the cotton, to take the place of the former memorandum or certificate for any cotton covered thereby, when necessary on account of the breaking or splitting of a lot or otherwise for the business convenience of such holder. In any case where a new memorandum or certificate is requested in accordance with this section the former memorandum or certificate shall be surrendered for cancellation, and such new memorandum or certificate shall bear a new number and the date of its issuance and the date of original classification and shall otherwise comply with this subpart.

Sec. 28.59 Lost memorandum or certificate may be replaced by duplicate. Upon the written request of the last holder of a valid Form A or Form D memorandum, or Form C certificate and a showing to the satisfaction of the chairman of the board which issued such memorandum or certificate that it has been lost or destroyed and, if lost, that diligent effort has been made to find it without success, a new memorandum or certificate shall be issued without the reclassification of the cotton. Such new memorandum or certificate shall bear the same number and date of issuance as the lost or destroyed memorandum or certificate and shall include a statement to the effect that it is a duplicate issued in lieu of the lost or destroyed original, as the case may be.

Sec. 28.60 Surrender of memoranda or certificates. For good cause any memorandum or certificate issued under this subpart shall be surrendered to the chairman of the board which issued it, upon his request or upon the request of the Director. A new memorandum or certificate complying with this subpart may be issued in substitution therefor. If such memorandum or certificate be not surrendered upon such request, it shall nevertheless be invalid for the purposes of the act and this subpart.

## REVIEWS

Sec. 28.65 Provisions for reviews. Reviews of classifications or comparisons represented by Form A or D memoranda or Form C certificates shall be governed by section 28.66.

Sec. 28.66 Review procedure. A review of any Form A, C, or D determination may be requested by the owner or custodian of the cotton from which the sample was drawn within 30 days after the



issuance of the original memorandum. Such review shall cover all of the quality factors for which the original determination was made. Requests for reviews of Form A or D determinations may be filed with, and the review made by, the board which issued such memorandum or the Appeal Board of Review Examiners. Requests for reviews of Form C determinations shall be filed with and the reviews made by, the Appeal Board of Review Examiners. Redrawn samples shall be required for reviews of Form A and Form C determinations except in cases where the original samples have remained, identity preserved, in the custody of the Division. When redrawn samples are necessary, they shall be drawn and submitted as prescribed in this subpart. As evidence of a review determination, a Form A or D memorandum or Form C certificate appropriately marked to indicate that it represents a review determination shall be issued to the applicant requesting the review. The applicant may be required by the board or Appeal Board issuing such review determination to surrender the original classification memorandum or certificate. In any event the review determination shall supersede and invalidate the original determination.

Sec. 28.67 Review of licensed classer's certificate. In case a review is desired of the classification of any cotton represented in a certificate issued by a licensed classer, the procedure shall be as provided in Sec. 28.98.

Sec. 28.68 Withdrawal of application for review. Any application for review may be withdrawn by the applicant at any time before the review classification of the cotton covered thereby has been completed, subject to the payment of such fees, if any, as may be prescribed in this subpart.

## LICENSED CLASSERS

Sec. 28.80 Applications for licenses to classify cotton. (a) Applications for licenses to classify cotton under section 3 of the act (42 Stat. 1517; 7 U. S. C. 53) shall be made to the Director on forms furnished by the Division.

(b) Each such application shall be in English, shall be signed by the applicant, and shall contain or be accompanied by (1) satisfactory evidence that he has passed his 21st birthday and that he is an actual resident of the continental United States, (2) satisfactory evidence of his training and experience in the actual classification of cotton, (3) a statement of the standards for cotton for the classification of which a license is desired, (4) a statement by the applicant that he agrees to comply with and abide by the terms of the act and this subpart so far as they may relate to him, and (5) such other information as may be required.

(c) The applicant shall furnish with his application a statement of the reasons he desires and needs a license.

Sec. 28.81 Examination of applicant. Each applicant for a license as a classer and each licensed classer shall, when requested by the Director, submit to an examination or test to show his ability to classify cotton, and each applicant who already holds a license under the act shall make available for inspection copies of the standards for classification used or to be used by him. An applicant who fails in an examination may be denied immediate reexamination.

Sec. 28.82 Examination; scope of "limited license." Examinations of applicants for licenses shall cover the classification of cotton in accordance with any or all of the standards listed below:

(a) The official cotton standards of the United States for grades and for all lengths of staple of American upland cotton.

(b) The official cotton standards of the United States for the grades of American upland cotton and for staple lengths not exceeding 1-1/8 inches.

(c) The official cotton standards of the United States for grades and staple lengths of American Egyptian cotton.

(d) The official cotton standards of the United States for grades and staple lengths of Sea Island cotton.

Each license under the act and each identification card shall specify the standards with respect to which it is issued. Any license which merely authorizes the licensee to determine the grade of American upland cotton and staple lengths not exceeding 1-1/8 inches shall be conspicuously marked "Limited License."

Sec. 28.83 Examination of licensees. Examination of licensees, when required, shall cover the classification of cotton with respect to any or all of the standards specified in their licenses. In addition any licensee who makes the necessary application and pays the fee specified in this subpart may be examined and licensed with respect to the classification of cotton according to any of the foregoing standards for which he does not already hold a license.

Sec. 28.84 Period of license. The period for which a license may be issued shall be from the first day of August until and including the thirty-first day of July following. Renewals shall be for not more than 1 year beginning with the first day of August of each year: Provided, That licenses issued on and after June 1 of each year shall be for the period ending on July 31 of the following year.

Sec. 28.85 Conditions as to licensing of classer. (a) It shall be a condition of the licensing of any cotton classer under this subpart and of the retention by him of a license, that he shall be actively engaged in the classification of cotton; that all cotton classified by him shall be graded and stapled in accordance with the official cotton standards of the United States; that his sample and type comparisons, if any, shall be truly and accurately made; that he shall not use his license or allow the same to be used for any improper purpose; and that he shall comply with the act and with the regulations in this subpart.

(b) It shall be a condition of the renewal of the license of any licensed cotton classer who has not issued any licensed classer's certificates in the three years immediately preceding his application for renewal that he take and satisfactorily pass the practical classing examination required for initial issuance of a license. When such re-examination is required, the applicant for renewal shall be required to pay the fee prescribed in this subpart for examination and issuance of a license.

Sec. 28.86 Fee for classifying cotton. Whenever any classer licensed under the act in accordance with this subpart shall classify and/or certificate any cotton or samples in consideration of a stated fee, the fee charged shall be reasonable.

Sec. 28.87 Copies of class certificates; retention period; other requirements. Each licensed classer shall keep for 1 year after date of issuance in a place accessible to interested persons a copy of each certificate issued by him as a licensed classer under this subpart. The Director may require that a copy of each such certificate be forwarded to a supervising office of the Division designated by him immediately after issuance of the certificate. Each licensed cotton classer who places his certificate of classification directly



on warehouse receipts, weight certificates, or on other documents approved by the Director for showing such certificate of classification shall keep for 1 year after date of classification a record listing each individual bale or sample classified by him in his capacity as a licensed classer. Such record shall show the bale number, grade, length of staple, or other class of each bale or sample, and date classed. A copy of the record shall be mailed weekly to the supervising office of the Service designated by the Director.

Sec. 28.88 Supervisory samples and reports. The Director may require each licensed classer to submit supervisory samples to a supervising office of the Division in accordance with instructions furnished to licensed classers from time to time. Any such samples submitted to the Division shall become the property of the Government and be disposed of in accordance with law and applicable regulations unless the licensee requests return of the samples at his expense. The Director may also require each licensed classer to make reports on forms furnished by the Division, or otherwise, bearing upon his activities as such licensed classer.

Sec. 28.89 Information of violations. Every person licensed under the act shall immediately furnish the Director any information which comes to the knowledge of such person tending to show that any provision of the act or this subpart has been violated.

Sec. 28.90 Suspension of license. Pending investigation the Secretary or an authorized official of the Department may, whenever he deems necessary, suspend the license of a licensed classer temporarily without hearing. Whenever a licensed classer shall voluntarily surrender his license for suspension or cancellation the same may be suspended or canceled by the Secretary or an authorized official of the Department without a hearing. The Secretary, or an authorized official of the Department may, after opportunity for hearing has been afforded in the manner prescribed in this section, suspend or cancel a license issued to a licensed classer when such licensed classer (a) has ceased to perform services as such classer, (b) has knowingly or carelessly classified cotton improperly, (c) has violated or evaded any provisions of the act or the regulations thereunder so far as the same may relate to him, (d) has used his license or allowed it to be used for any improper purposes, or (e) has in any manner become incompetent or incapacitated to perform the duties of such licensed classer. Before the license of any licensed classer is finally suspended or revoked pursuant to section 3 of the act (42 Stat. 1517; 7 U. S. C. 53), such licensed classer shall be furnished by the Secretary, or by an authorized official of the Department, a written statement specifying the charges and shall be allowed a reasonable time within which he may answer the same in writing and apply for a hearing, an opportunity for which shall be accorded if requested in accordance with section 28.92.

Sec. 28.91 Suspended license to be returned to Division. If a license issued to a licensed classer is suspended, revoked, or canceled, such license shall be returned to the Division. At the expiration of any period of suspension of such license, unless in the meantime it be revoked or canceled, the dates of the beginning and termination of the suspension shall be indorsed thereon, and it shall be returned to the licensed classer to whom it was originally issued.

Sec. 28.92 Hearings granted licensees. For the purpose of a hearing under the act or this subpart, the licensee involved shall be



allowed a reasonable time, fixed by the Secretary or by an authorized official of the Department, within which affidavits and other proper evidence may be submitted. If requested by the licensee within such time, an oral hearing, of which reasonable notice shall be given, shall be held before and at the time and place fixed by the Secretary or an authorized official of the Department. The testimony of the witnesses at such oral hearing shall be upon oath or affirmation administered by the official before whom the hearing is held when required by him. Such oral hearing may be adjourned by him from time to time. After reasonable notice to all parties concerned, the deposition of any witness may be taken at a designated time and place and before an authorized official of the Department. Every written entry in the records of the Department made by an officer or employee thereof in the course of his official duty, which is relevant to the issue involved in a hearing, shall be admissible as prima facie evidence of the facts stated therein without the production of such officer or employee. Copies of all papers and all the evidence submitted or considered in such hearing shall be made a part of the records of the Department. Such records, and when there has been an oral hearing the recommendation of the official holding such oral hearing, shall be transmitted to the Secretary or an authorized official of the Department for his consideration. Each party shall pay all expenses contracted by him in connection with any hearing under this section.

Sec. 28.93 Lost license may be duplicated. Upon satisfactory proof of the loss or destruction of a license issued to a licensed classer, a duplicate thereof may be issued under the same or a new number, in the discretion of the Director.

Sec. 28.94 Classer; misrepresentation. No person shall in any way represent himself to be a classer licensed under the act unless he holds an unsuspended, unrevoked, unexpired, and uncanceled license issued under the act.

Sec. 28.95 Class certificate; form. Each class certificate issued under the act by a licensed classer shall be in a form approved for the purpose by the Director and shall embody within its written or printed terms:

- (a) The caption "Licensed Cotton Classer's Certificate."
- (b) The serial number assigned to it.
- (c) The date and place of issuance.
- (d) That the certificate is issued by a classer licensed under the United States Cotton Standards Act and this subpart.
- (e) A list of the standards with respect to which the classer is licensed.
- (f) The exact location of the cotton at the time of classification.
- (g) A statement in accordance with the facts in each case, either (1) that the classer has drawn or supervised the drawing of the samples upon which his classification is based, or (2) that the samples were submitted to the classer by another person, in which case the name and address of such person shall be stated.
- (h) The identification of each bale of cotton by the tag number or mark by which the bale was identified at the time the sample was taken.
- (i) The grade, length of staple, or other class of each bale or sample of cotton covered thereby.
- (j) The signature of the licensed classer.

Sec. 28.96 Certificate by licensed classer not final. A certificate issued by a licensed classer shall in no case be deemed a final

certificate within the meaning of section 4 of the act (42 Stat. 1517; 7 U. S. C. 54). The certificate or memorandum of a board of cotton examiners covering any cotton represented in a licensed cotton classer's certificate shall at once invalidate and supersede a licensed classer's certificate as to such classification.

Sec. 28.97 Licensed classer's certificate; when null and void. The shipment, sale, or consignment of any cotton or the sale or hypothecation of any warehouse receipts, compress receipts, or bills of lading representing any cotton covered by a licensed classer's certificate shall render such certificate null and void unless the certificate be attached to the warehouse receipts, bills of lading, or invoices by which the cotton is moved or sold or by which title to the cotton is passed or hypothecated.

Sec. 28.98 Review of classification. In case a review is desired of the classification of any cotton represented in a valid certificate issued by a licensed classer as provided in this subpart, the holder of such certificate shall surrender the same, together with samples of the cotton, to a board and receive in its stead a certificate signed by the chairman of such board. The certificate of the board issued in lieu of the licensed classer's certificate in accordance with this section shall be subject to review by the Appeal Board of Review Examiners, provided a review would have been granted if the classification had been performed originally by a board.

Sec. 28.99 Inconsistent classifications. In the event any licensed classer or any employee of the Department shall find that any cotton has been inconsistently classified by two or more licensed classers, he shall thereupon bring the matter to the attention of an officer of the Division who shall review all the facts obtainable and, if possible, determine the classification of the cotton. Such officer may examine or requisition such samples of the cotton in question as may be in the hands of such licensed classers, or in his discretion, may request that new samples be drawn, if obtainable. In the event samples are not obtainable the supervising officer may, if in his judgment sufficient facts are available, decide which of the inconsistent classifications shall be sustained. The records of the licensed cotton classers concerned shall be corrected to show the findings of the supervising office.

## PRACTICAL FORMS OF COTTON STANDARDS

Sec. 28.105 Practical forms of cotton standards. (a) Practical forms of the cotton standards of the United States prepared in physical form, each certified under the seal of the United States Department of Agriculture and under the signature of the Secretary, thereto affixed by himself or by some other official or employee of the Department duly authorized by him, and in the case of the standards for grade accompanied by photographs representing the cotton in such practical forms on the date of certification, are available for sale to any person requesting the same, subject to the other conditions of this section.

(b) Each application for practical forms of the cotton standards shall be upon an application form furnished by the Division, shall be signed by the applicant, and shall incorporate the following conditions:

(1) That no practical form of any of the cotton standards for grade, or the 6-sample guide boxes for the grade of American upland cotton shall be considered or used as representing such



standards after the date of its cancellation in accordance with this section or in any event after the expiration of 12 months following the date of its certification: Provided, That sets of practical forms stored, protected, and preserved in accordance with certain agreements for the adoption of universal standards may be used for such periods as may be prescribed in such agreements.

(2) That said practical forms and the photographs accompanying them shall be subject to inspection on any business day, between the hours of 9 a. m. and 4 p. m., by the Secretary or by an officer or agent of the Department authorized by him for the purpose.

(3) That the signature of the Secretary certifying to any practical form, or any photograph of said practical form accompanying the same, or both, may be cancelled if it be found, upon such inspection, either that any of said forms for any reason misrepresents the cotton standards or that any such photograph has been altered or mutilated.

Sec. 28.106 Universal cotton standards. Whenever any of the official cotton standards shall have been adopted as universal standards by an association or exchange located in a country other than the United States, the name of such association or exchange may be shown on the outside of the box or container.

Sec. 28.107 Containers of "original" cotton standards; where kept; reserve sets. (a) The containers of the original universal standards and other official cotton standards of the United States currently adopted, whenever such official standards are represented by practical forms, shall be marked as prescribed in the order or orders of their establishment, wrapped, and sealed with wax seals. When so marked, wrapped, and sealed they shall be deposited in a suitable vault or in a steel safe or safes, which safe or safes shall be kept sealed with an imprinted seal. Such containers shall remain in the custody of the Director until the original standards contained therein are superseded by new or revised standards. The dies used to seal the first reserve set of the universal standards shall be deposited in the Treasury of the United States subject to the order of the Secretary of Agriculture; those used to seal the other official cotton standards of the United States shall remain in the custody of the Director. Such safes shall be sealed in the presence of the General Counsel of the Department and the Director, or of persons temporarily acting in their stead, and shall thereafter be opened only in the presence of the same.

(b) At each Universal Cotton Standards Conference held for approving key copies of the universal standards there shall be prepared two full sets of practical forms of copies of the universal standards for grades of American upland cotton, which shall be known as "reserve sets" and which, upon the certification and recommendation of qualified experts, shall be certified by such experts as true copies of the currently adopted standards as and when established. Such reserve sets shall be enclosed in metal-lined cases, likewise sealed in the presence of the General Counsel of the Department and the Director, or of persons temporarily acting in their stead. One such set, to be known as the "first reserve set," shall then be delivered to agents of the Treasury Department of the United States to be deposited in the United States Treasury, and the other, to be known as the



"second reserve set," shall be deposited in the vaults of the Division in the immediate control and custody of the Director. Such reserve sets shall remain so deposited until such time as they shall be required for examination, reproduction, and use, as set forth in paragraph (c) of this section. When so required they shall be withdrawn only upon the order of the Secretary or of the person temporarily acting in his stead. The seals upon the cases and containers of the practical forms shall be broken only in the presence of the General Counsel and the Director, or persons temporarily acting in their stead, and experts qualified in the classification of American upland cotton authorized to be present.

(c) As soon as practicable after the opening, as provided in paragraph (b) of this section, of the first reserve set, two new reserve sets shall be prepared by comparison with the first reserve set, which shall be taken to represent so far as possible the currently adopted standards as and when established, and which shall, in turn, be numbered, incased, sealed, and stored in the manner prescribed in paragraph (b) of this section. The first reserve set of the preceding 3-year period shall then be again sealed and shall remain in the custody of the Director. If, upon the opening and examination of the first reserve set as herein provided, it shall appear that such set has undergone any substantial change, the second reserve set shall, for the purposes of this paragraph, be used in its stead. The first and second reserve sets of each 3-year period shall be retained by the Division until the currently adopted standards which they represent have been superseded by new or revised standards.

#### FEES AND COSTS

Sec. 28.115 Fees and costs; payment. All charges for practical forms of cotton standards and all fees and expenses for services of inspection of bales and supervision of sampling, classification, comparison, or review by a board of examiners shall be paid at the time of filing the request for the service desired, except that in the discretion of the Director bills may be delivered to persons from whom payment for charges or fees may become due. Such bills shall be rendered as soon as practicable after the last day of each month for amounts due and unpaid on such dates. When necessary, in the discretion of the chairman of the board, any bill may be rendered at an earlier date for any charges or fees then due from the person to whom such bill may be rendered. Payment of any such bill shall be made as soon as possible after the rendition thereof, but in any event not later than the expiration of 2 weeks thereafter.

Sec. 28.116 Amounts of fees for classification; exemption. (a) For the classification and certification of any cotton or samples or for the review of a licensed cotton classer's certificate, the person requesting the classification or review shall pay a fee, as follows, subject to the minimum fee provided in paragraph (d) of this section:

(1) If the classification is with respect to grade only, at the rate of 25 cents a sample.

(2) If the classification is with respect to staple only, at the rate of 25 cents a sample.

(3) If the classification is with respect to any other single quality, at the rate of 25 cents a sample.

(4) In other cases where the classification is with respect to two or more of the qualities specified in subparagraphs (1), (2), or (3) of this paragraph at the rate of 25 cents a sample.

(b) When a comparison is requested of any samples with a type or with other samples, the fees prescribed in paragraph (a) of this section shall apply to every sample involved, including each of the samples of which the type is composed.

(c) For any review of the classification or comparison of any cotton, the fee shall be 25 cents per sample, regardless of the number of quality factors involved in the review.

(d) A minimum fee of \$3.00 shall be assessed for services described in paragraphs (a), (b), and (c) of this section for each lot or mark of cotton reported or handled separately, unless the request for service is so worded that the samples become Government property immediately after classification.

(e) The fees provided for in paragraphs (a) and (b) of this section may be waived in whole or in part, as to the classification and comparison and the review, if any, of any cotton (1) for any governmental agency; (2) to facilitate a cotton program of any governmental agency, and (3) for a charitable or philanthropic organization if such cotton will be used in accordance with an act of Congress or a congressional resolution for the relief of distress or will be exchanged for goods to be so used. The samples accumulated in the classification or certification of cotton for a governmental agency or to facilitate a cotton program of any governmental agency shall be disposed of as required by such agency.

Sec. 28.117 Fee for new memorandum or certificate. For each new memorandum or certificate issued in substitution for a prior memorandum or certificate at the request of the holder thereof, on account of the breaking or splitting of the lot of cotton covered thereby or otherwise for his business convenience, the person requesting such substitution shall pay a fee of 25 cents when the number of bales covered by the new memorandum or certificate is 10 or less, or a fee of 50 cents per sheet when the number of bales covered by such memorandum or certificate is more than 10.

Sec. 28.118 When no fee collected for new certificate or memorandum. No fee shall be collected for a new cotton class certificate or memorandum issued in lieu of a prior certificate or memorandum solely for the purpose of correcting clerical errors therein, or for the purpose of substituting a new form applicable to outstanding certificates or memorandums, or without an application therefor.

Sec. 28.119 Fee when request for classification is withdrawn. When the request for the classification or comparison of any cotton or an application for review shall be withdrawn after the classification of such cotton has been started pursuant thereto, the person filing the same shall pay the prescribed fee as to any such cotton already classified.

Sec. 28.120 Expenses to be borne by party requesting classification. For any samples submitted for Form A or Form D determinations, the expense of inspection and sampling, the preparation of the samples, and the delivery of such samples to the classification room of the board or other place specifically designated for the purpose by the Director or by the chairman of such board, shall be borne by the party requesting the classification. For



samples submitted for Form C determination, the party requesting the classification shall pay the fees prescribed in this subpart and, in addition, a fee of \$3 per hour, or each portion thereof, plus the necessary traveling expenses and subsistence, or per diem in lieu of subsistence, incurred on account of such request, in accordance with the fiscal regulations of the Department applicable to the Division employee supervising the sampling.

Sec. 28.121 Advance deposits. Upon request, the person from whom any payment under this subpart may become due shall make an advance deposit to cover such payment in such amount as may be necessary in the judgment of the official of the Division requesting the same.

Sec. 28.122 Fee for examination of applicant for license; renewals. For the practical classing examination of an applicant for a license to classify cotton in accordance with this subpart, the fee shall be \$50.00, but no additional charge shall be made for the issuance of a license to an applicant found to be properly qualified. For each renewal of a classer's license, the fee shall be \$25.00. The fee for the practical classing examination for persons not desiring a license shall be \$40.00. Any such person who passes the examination may be issued a certificate indicating this accomplishment.

Sec. 28.123 Costs of practical forms of cotton standards. The cost of practical forms of the cotton standards of the United States shall be as follows:

	Domestic shipments f. o. b. Washington	Shipments delivered outside the Continental United States
<b>Grade Standards</b>		
<b>American Upland:</b>	<b>Dollars each box</b>	<b>Dollars each box</b>
12--sample official boxes (Universal Standards) - - - - -	10.00	12.00
6--sample guide boxes - - - - -	5.00	6.50
American Egyptian: 6--sample official boxes - - - - -	10.00	12.00
Sea Island: 12--sample official boxes -	10.00	12.00
<b>Tentative Standards for Preparation of American Upland Long-Staple Cotton</b>		
6--sample boxes - - - - -	5.00	6.50
<b>Standards for Length of Staple</b>	<b>Dollars each length</b>	<b>Dollars each length</b>
American Upland (prepared in one pound rolls for each length) - - - - -	2.00	2.50
American Egyptian (prepared in one pound rolls for each length) - - -	2.00	2.50
Sea Island (prepared in one pound rolls for each length) - - - - -	2.00	2.50



Sec. 28.124 Payments; procedure. Any payment or advance deposit under sections 28.115 through 28.123 shall be by check, draft, or money order, payable to the order of the "Agricultural Marketing Service, USDA", and may not be made in cash except in cases where the total payment or deposit does not exceed \$1.

Sec. 28.125 No voiding or modifying claims for payment. Nothing in this subpart shall be construed to void or modify any claim which a person or party requesting and paying for a service may have against any other person or party for the payment of part or all of such costs.

Sec. 28.126 Loaning of forms and exhibits. In the discretion of the Director, limited numbers of copies of the practical forms of any of the official standards, or specially prepared exhibits illustrating any of such standards or cotton samples, may be loaned to governmental agencies for official purposes or to educational and other institutions or organizations for demonstration purposes.

#### UNITED STATES COTTON LINTERS

Sec. 28.136 Applicability of other sections of regulations. Insofar as applicable, and not inconsistent with sections 28.136 to 28.151, the provisions of this subpart relating to cotton shall likewise apply to cotton linters.

Sec. 28.137 Boards of cotton linters examiners. There shall be located at Washington, D. C., and, when necessary in the opinion of the Deputy Administrator, at any other point that he shall designate for the purpose, a board of cotton linters examiners. The members of all such boards and the chairman of each shall be designated by the Director.

Sec. 28.138 Classification and comparison; requests, memorandums and certificates. For each lot or mark of linters which the applicant desires classified or compared separately he shall make a separate written request specifying which of the following forms of service is desired. Only one request within a 30-day period shall be made by the same owner for the classification or comparison of the same linters, except a request for a review determination. If the applicant desires that the samples be returned to him, at his expense, he must indicate this in the request for classification or comparison. If the return of samples is not requested they shall become the property of the Government and shall be disposed of in accordance with law and applicable regulations.

(a) Form A determination. The classification or comparison of samples of linters that have been freshly drawn by a licensed linters classer and submitted direct to a Board of Cotton Linters Examiners without classification or further handling by such classer. Such classification or comparison shall be evidenced by a Form A memorandum which shall be subject to review as provided in section 28.146. Composite samples composed of portions of linters drawn from more than one bale are not eligible for Form A determinations.

(b) Form C determination. The classification of bales of linters sampled under the supervision of an employee of the Department. The classification in such cases shall be evidenced by a Form C certificate which shall be subject to review as provided in section 28.146. Such certificate when it has been reviewed in accordance with section 28.146 shall be deemed to be a final certificate as to the classification shown, within the meaning of section 4 of the act (42 Stat. 1517; 7 U. S. C. 54).

(c) Form D determination. The classification or comparison of samples submitted for other than Form A or Form C determinations. Such classification or comparison shall be evidenced by a Form D memorandum which shall not be subject to review.

Sec. 28.139 Filing of requests. All requests for classification or comparison leading to Form A memoranda, Form D memoranda, or Form C certificates shall be filed with the secretary of the Board of Cotton Linters Examiners at Washington, D. C., unless otherwise directed by the Director.

Sec. 28.140 Samples; weight; drawing. Each sample submitted to a Board of Cotton Linters Examiners shall weigh not less than 8 ounces; shall be wrapped separately; shall contain a coupon or tag showing the bale number or identity of bale from which drawn; and shall be drawn in the following manner:

(a) Condenser system linters. Separate portions shall be drawn from three different places in either head of the bale so as to provide as representative sample as possible, each portion to be approximately 6 by 8 inches in size. All portions of the bale sample shall be placed in a single paper sack or wrapper together with an identifying tag stub or other identification. The portions together shall constitute the sample representing one bale.

(b) Flue and beater system linters. A sample of not less than 8 ounces, consisting of equal portions drawn from two sides of a bale, or from two shoulders of a bale, shall be drawn.

Sec. 28.141 Inspection of bales for special conditions. A licensed linters classer drawing samples for submission to a Board of Cotton Linters Examiners for Form A classification or comparison shall inspect each bale and shall specify on his sampler's certificate accompanying the samples any conditions not fully indicated by the samples.

Sec. 28.142 Submission of samples. All samples submitted to a Board of Cotton Linters Examiners for classification or comparison under this subpart shall be delivered or sent to the secretary of the board with all transportation charges incident thereto prepaid. All samples submitted by a licensed linters classer for Form A classification must have been freshly drawn by such classer, must be submitted direct to the board without classification or further handling, and must be accompanied by a sampler's certificate. Such certificate shall be on a form furnished by the Division for this purpose.

Sec. 28.143 Method of classification. The classification of all cotton linters samples shall be in accordance with the official cotton linters standards of the United States and sections 28.143 through 28.145. The grade, staple, and character of each sample shall be determined and designated separately, together with any special conditions of the sample or bale.

Sec. 28.144 Samples falling between grades or staples. In classification, a sample which is determined to be between two adjacent grades or between two adjacent staples shall be assigned the lower of the two grades or two staples.

Sec. 28.145 Terms defined; linters classification. For the purposes of classification of any cotton linters or comparison with a type or other samples, the following terms shall be construed, respectively to mean:

(a) Grade. The term grade means the color and trash in cotton linters.



(b) Staple. The staples of cotton linters as defined in the official cotton linters standards of the United States for staple, sections 28.215 through 28.222.

(c) Character. The term character means the relative harshness of linters. In linters classification, character shall be described as follows: Soft (symbol S); Average (symbol A); Harsh (symbol H); or Extra Harsh (symbol EH).

(d) Prime linters. Prime linters are cotton linters which are equivalent in grade to the official grade standards and do not show evidence of excess trash, physical deterioration, the presence of objectionable odors, or other characteristics which prohibit its description in terms of the official grade standards.

(e) Off grade linters. Cotton linters which show evidence of physical deterioration, the presence of objectionable odors, or other characteristics which prohibit its description in terms of the official grade standards shall be designated as "Off Grade," and no specific grade assigned.

(f) Excess trash. Cotton linters that contain more trash than is represented in the grades described in sections 28.201 through 28.208 shall be assigned that grade to which it is equal in color and further described by the term "Excess Trash." Such linters shall not be considered as prime linters.

(g) Compound grades. Cotton linters which in grade show a variation equal to that shown in any 2 or 3 adjacent grades of those described in sections 28.201 through 28.208 shall be designated by the compound name of such grades.

(h) Compound staples. Cotton linters which in staple show a variation equal to that shown in any 2 or 3 adjacent staples of those listed in sections 28.215 through 28.222 shall be designated by the compound name of such staples.

(i) Mixed packed grades. Cotton linters which in grade show a variation greater than that shown in any 3 adjacent grades of those described in sections 28.201 through 28.208 shall be designated as "Mixed Packed" for grade on classification certificates and memoranda and the grades constituting the mixture shown.

(j) Mixed packed staples. Cotton linters which in staple show a variation greater than that shown in any 3 adjacent staples of those listed in sections 28.215 through 28.222 shall be designated as "Mixed Packed" for staple on classification certificates and memoranda and the staples constituting the mixture shown.

(k) Weak staple. Cotton linters in which the strength of staple is below that normally found in linters of otherwise comparable staple shall be designated by the term "Weak" and no specific staple assigned.

(l) False packed linters. Linters in a bale (1) containing substances entirely foreign to linters; (2) containing damaged linters in the interior with or without any indication of such damage upon the exterior; (3) composed of good linters upon the exterior and decidedly inferior linters in the interior, in such manner as not to be detected by customary examination; or (4) containing motes, sweepings, or hull fiber worked into the bale.

(m) Repacked linters. Linters that are composed of factors', brokers', or other samples, or of loose or miscellaneous lots collected and rebaled, or linters in a bale which is composed of linters from two or more smaller bales or parts of bales.

(n) Water-packed linters. Linters in a bale that has been penetrated by water during the baling process, causing damage to

the fiber, or a bale that through exposure to the weather or by other means while apparently dry on the exterior, has been damaged by water in the interior.

Sec. 28.146 Reviews. A review of any Form A or Form C determination may be requested by the owner of the linters from which the sample was drawn, or his agent, within 30 days after the issuance of the original memorandum or certificate. Such request shall be filed with the secretary of the Board of Cotton Linters Examiners at Washington, D. C., and shall be accompanied by the original classification memorandum or certificate if it is in the possession of the applicant. The application shall state the reason for failure to submit such document. Form D determinations are not subject to review.

(a) Form A and Form C Reviews. Redrawn samples will be required except in cases where the original samples have remained in the custody of the Board of Cotton Linters Examiners. When redrawn samples are necessary, they shall be drawn and submitted in accordance with the applicable provisions of sections 28.138, 28.140, 28.141, and 28.142. A Form A memorandum or Form C certificate, as applicable, appropriately marked to indicate that it represents a review determination shall be issued to the applicant requesting the review. The review classification memorandum shall supersede the original classification memorandum.

(b) Review of licensed classer's certificate. In case a review is desired of the classification of any linters represented in a valid certificate issued by a licensed linters classer, the holder of such certificate shall surrender the same, together with samples of the linters involved, to the Board of Cotton Linters Examiners and receive in its stead a Form D memorandum signed by the chairman of such board. Such Form D memorandum shall be appropriately marked to show it represents a review of a licensed classer's certificate. The Form D memorandum issued in lieu of the licensed classer's certificate shall not be subject to further review. The provisions of this paragraph do not prohibit the drawing of new samples and filing of a request with the Board of Cotton Linters Examiners leading to a Form A or Form D memorandum or a Form C certificate.

Sec. 28.147 Licensed classers. Subject to the applicable terms and conditions of sections 28.80 through 28.99, any person may, upon presentation of evidence of competency, be licensed to grade or classify linters, and to certificate the grade or class thereof in accordance with the official cotton linters standards of the United States.

(a) Class certificates; form; mailing to board. Each class certificate issued by a licensed linters classer under this subpart shall be on a form furnished by the Division. A copy of each certificate shall be mailed to the Board of Cotton Linters Examiners at Washington, D. C., within 3 days after issuance.

(b) Supervisory samples. Some samples from each lot or mark of samples on which a licensed linters classer issues a certificate under this subpart shall be sent to the Board of Cotton Linters Examiners for supervisory purposes. Such supervisory samples shall be submitted to the board in accordance with instructions furnished licensees by the Director from time to time.

Sec. 28.148 Fees and costs; classification; reviews; other. The fee for the classification, comparison, or review of linters with respect to grade, staple, and character or any of these



qualities, shall be at the rate of 20 cents for each bale or sample involved. The provisions of sections 28.115 through 28.126 relating to other fees and costs shall, so far as applicable, apply to services performed with respect to linters.

Sec. 28.149 Fees and costs; Form C determinations. For samples submitted for Form C determination, the party requesting the classification shall pay the fees prescribed in this subpart and, in addition, a fee of \$3 per hour, or each portion thereof, plus the necessary traveling expenses and subsistence, or per diem in lieu of subsistence, incurred on account of such request, in accordance with the fiscal regulations of the Department applicable to the Division employee supervising the sampling.

Sec. 28.150 Fee; licenses; renewals. The fee for the examination of an applicant for a license to classify linters shall be \$10. No additional charge shall be made for the issuance of a license to an applicant found to be properly qualified. The fee for each renewal of such license shall be \$5.

Sec. 28.151 Cost of practical forms; period effective. Practical forms of the official cotton linters standards of the United States will be furnished to any person subject to the applicable terms and conditions specified in section 28.105: Provided, That no practical form of any of the official cotton linters standards of the United States for grade shall be considered as representing any of said standards after the date of its cancellation in accordance with this subpart, or, in any event, after the expiration of 12 months following the date of its certification. The cost of the official standards for grade shall be at the rate of \$5.00 each, f.o.b., Washington, D. C., for shipments within the continental United States, and \$6.50 each, delivered to destination, for shipments outside the United States. The cost of the official standards for staple shall be at the rate of \$1.00 each, f.o.b., Washington, D. C., for shipments within the continental United States, and \$1.50 each, delivered to destination, for shipments outside the continental United States.

#### ADJUSTMENT OF CONTRACT DISPUTES

Sec. 28.160 Cotton examiners on foreign exchanges. Whenever any association or exchange in any country other than the United States shall adopt the universal standards and establish them as the basis of all transactions and contracts for American upland cotton, made and executed according to its rules, the Director may appoint certain members or officials of such exchanges as cotton examiners. Insofar as the administration of the act applies to cotton involved in contracts made in accordance with the rules of such exchange, the administration shall be as prescribed in sections 28.161 through 28.162.

Sec. 28.161 Disputes involving contracts for shipments of cotton from United States. When an association or exchange located in a country other than the United States shall adopt any of the official cotton standards of the United States and when the members of the committee of such association or exchange having final jurisdiction in the matter of appeals have been designated as cotton examiners by the Director, such committee may be constituted for the purposes of this act a Board of the Department and authorized to act as follows:

(a) Insofar as the exchange has adopted the universal standards the committee may pass upon the classification of cotton involved

in a dispute between a party in the United States and a party without the United States to a contract made under the rules of the association or exchange.

(b) The submission of samples of cotton involved in such a dispute to such association or exchange or such committee in accordance with the rules of the association or exchange shall be deemed to be a submission to the Department.

(c) Determinations of classification made by the boards so constituted shall be final. When so provided in the articles, rules, or by-laws of the association or exchange, such determinations may be evidenced by awards. If an award is made which does not state the classification, such board will, upon request of the owner or custodian of the cotton and the payment of a reasonable additional fee, issue a certificate showing in detail the true classification for grade and color of such cotton, based upon a comparison of the samples with the universal standards or with a type or other samples on which the cotton has been sold, as the case may be.

Sec. 28.162 Procedure. The manner of procedure in submitting and handling samples, in classification and in instituting and conducting arbitrations and appeals shall be as prescribed in the articles, by laws, and rules of the association or exchange.

#### PUBLICATIONS

Sec. 28.165 Publication media. Publications under the act and this subpart may be made in service and regulatory announcements and by such other means as the Director shall from time to time designate for the purpose.

### SUBPART B—CLASSIFICATION FOR FOREIGN GROWTH COTTON AND COTTON LINTERS

Sec. 28.175 Administrative and general. Insofar as applicable, and not inconsistent with this subpart, the provisions of Subpart A of this part shall likewise apply to the classification and comparison of cotton and cotton linters produced outside the continental United States.

Sec. 28.176 Designation of official certificates, memoranda, marks, other identifications, and devices for purpose of the Agricultural Marketing Act. Subsection 203 (h) of the Agricultural Marketing Act of 1946, as amended by Public Law 272, 84th Congress, provides criminal penalties for various specified offenses relating to official certificates, memoranda, marks or other identifications, and devices for making such marks or identifications, issued or authorized under section 203 of said act, and certain misrepresentations concerning the inspection or grading of agricultural products under said section. For the purposes of said subsection and the provisions in this subpart, the terms listed below shall have the respective meanings specified:

(a) "Official certificate" means any form of certification, either written or printed, used under this subpart to certify with respect to the inspection, sampling, class, grade, quality, quantity, or conditions of products (including the compliance of products with applicable specifications).

(b) "Official memorandum" means any initial record of findings made by an authorized person in the process of grading,



inspecting, or sampling, pursuant to this subpart, any processing or plant-operation report made by an authorized person in connection with grading, inspecting, or sampling under this subpart, and any report made by an authorized person of services performed pursuant to this subpart.

(c) "Official mark" means the grade mark, inspection mark, and any other mark, approved by the Administrator and authorized to be affixed to any product or affixed to or printed on the packaging material of any product, stating that the product was graded or inspected or both, or indicating the appropriate U. S. Grade or condition of the product, or for the purpose of maintaining the identity of products graded or inspected or both under this subpart.

(d) "Official identification" means any United States (U. S.) standard designation of class, grade, quality, quantity, or condition specified in this subpart or any symbol, stamp, label, or seal indicating that the product has been officially graded or inspected and/or indicating the class, grade, quality, quantity, or condition of the product, approved by the Administrator and authorized to be affixed to any product, or affixed to or printed on the packaging material of any product.

(e) "Official device" means a stamping appliance, branding device, stencil, printed label, or any other mechanically or manually operated tool that is approved by the Administrator for the purpose of applying any official mark or other identification to any product or the packaging material thereof.

Sec. 28.177 Requests for classification and comparison of cotton. The applicant shall make a separate written request, on a form supplied by the Division, for each lot or mark of cotton which he desires classified or compared separately. The same applicant shall not file more than one request for the classification or comparison of the same cotton within any 30-day period except for a review classification or comparison as provided in section 28.181. All requests for classification or comparison in the United States shall be filed with the Board of Cotton Examiners which serves the territory in which the samples are located. If the cotton is stored outside the United States the request shall be filed with the board designated by the Director. The chairman of any board may refer any request and the samples submitted to another board or to the Appeal Board of Review Examiners for classification or comparison.

Sec. 28.178 Submission of cotton samples. Samples of cotton submitted to a board of cotton examiners for classification and/or comparison shall be drawn from both sides of the bale and shall be delivered to the secretary of the board with which the request was filed, as soon as possible after the filing of such request. All such samples shall be inclosed in one or more wrappers, which shall be labeled or marked, or both, in such manner as to show the name and address of the owner, the lot number or marks, if any, the number of bales represented by the samples in each wrapper, and such other information as may be necessary in accordance with the instructions of the chairman of the board. All transportation charges incident to the submission of samples shall be prepaid by the party making the request or his agent.

Sec. 28.179 Methods of cotton classification and comparison. The classification of samples from cotton produced outside the continental United States shall be on the basis of the official cotton standards of the United States in effect at the time of classification. When a comparison of such cotton samples with other actual samples or with a type is requested, the procedure and methods shall be as outlined in sections 28.45 through 28.47.

Sec. 28.180 Issuance of cotton classification memoranda. As soon as practicable after the classification or comparison of cotton has been completed by a board of cotton examiners, there shall be issued a cotton classification memorandum which shall embody within its written or printed terms:

- (a) The results of the classification or comparison.
- (b) The name of the country in which the cotton was produced.
- (c) The source from which the samples were received for classification.
- (d) A statement that any classification made has been on the basis of the official cotton standards of the United States in effect at the time of such classification.

(e) The signature of the Chairman of the Board, the location of the Board, and the date of issuance of the memorandum.

Sec. 28.181 Review of cotton classification. A review of any classification or comparison made pursuant to this subpart may be requested by the owner or custodian of the cotton from which the sample was drawn within 30 days after the issuance of the original memorandum. Such request, accompanied by the original memorandum, may be filed with either the board which issued the original memorandum or the Appeal Board of Review Examiners. Redrawn samples shall be required except in cases where the original samples have remained, identity preserved, in the custody of the board which issued the original memorandum. As evidence of any review determination, a classification memorandum marked to indicate that it represents a review determination shall be issued to the applicant requesting the review.

Sec. 28.182 Surrender of memoranda. For good cause any memorandum issued under this subpart shall be surrendered to the chairman of the board which issued it, upon his request or upon the request of the Director, and a new memorandum complying with this subpart issued in substitution therefor. If the memorandum be not surrendered upon such request, it shall nevertheless be invalid for the purposes of this subpart.

Sec. 28.183 Fees and costs; payment. The provisions of sections 28.115 through 28.126 relating to fees, costs, and method of payment shall apply to services performed with respect to cotton produced outside the continental United States.

Sec. 28.184 Cotton linters; general. Requests for the classification or comparison of cotton linters pursuant to this subpart and the samples involved shall be submitted to the Board of Cotton Linters Examiners at Washington, D. C. All samples classed shall be on the basis of the official cotton linters standards of the United States. The fee for classification or comparison and the issuance of a memorandum showing the results of such classification or comparison shall be 20 cents per sample.



# UNITED STATES COTTON STANDARDS ACT <sup>1</sup>

## Chapter 2.—COTTON STANDARDS

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#### Sec. 50. Short title.

This chapter shall be known by the short title of "United States Cotton Standards Act." (Mar. 4, 1923, ch. 288, Sec. 1, 42 Stat. 1517.)

#### *Effective Date*

*Section 14 of act Mar. 4, 1923 provided that the act should become effective on Aug. 1, 1923.*

#### Sec. 51a. Extension of classification facilities to cotton growers.

The Secretary of Agriculture is requested to extend to cotton growers facilities for the classification of cotton authorized in this chapter, with such supervision of licensed classifiers as he shall deem necessary under authority of the United States Cotton Futures Act. (Mar. 4, 1933, ch. 284, Sec. 1, 47 Stat. 1621.)

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<sup>1</sup>United States Code, Title 7, Chapter 2, Sections 51-65.

*Codification*

*Section was not a part of the United States Cotton Standards act, which constitutes this chapter.*

**Sec. 51a-1. Contracts with cooperatives furnishing classers; amount and type of payment.**

Hereafter the Secretary may contract with cooperatives furnishing classers and other facilities for classing cotton and may pay for such services in amount, some part of which may be in kind, not in excess of the value of the samples. (July 5, 1952, ch. 574, title I, Sec. 101, 66 Stat. 349.)

*Codification*

*Section was enacted as a part of the Department of Agriculture Appropriation Act, 1953, and not as a part of the Cotton Standards Act, which constitutes this chapter.*

**Sec. 51b. Licensing samplers; revocation and suspension of license.**

Further to carry out the purposes of this chapter the Secretary of Agriculture is authorized to issue to any qualified person, upon presentation of satisfactory evidence of competency, a license to sample cotton. Any such license may be suspended or revoked by the Secretary of Agriculture whenever he is satisfied that such licensee is incompetent or has knowingly or carelessly sampled cotton improperly, or has violated any provision of this chapter or the regulations thereunder so far as the same may relate to him, or has used his license, or allowed it to be used, for any improper purpose. The Secretary of Agriculture may prescribe by regulation the conditions under which licenses may be issued under this section, and may require any licensed sampler to give bond for the faithful performance of his duties and for the protection of persons affected thereby and may prescribe the conditions under which cotton shall be sampled by licensed samplers for the purpose of classification by officers of the Department of Agriculture, or by licensed cotton classifiers. (Mar. 4, 1933, ch. 284, Sec. 2, 47 Stat. 1621.)

*Codification*

*Section was not a part of the United States Cotton Standards Act, which constitutes this chapter.*

**Sec. 52. Use of nonofficial standards prohibited; sales by sample excepted.**

It shall be unlawful (a) in or in connection with any transaction or shipment in commerce made after August 1, 1923, or (b) in any publication of a price or quotation determined in or in connection with any transaction or shipment in commerce after August 1, 1923, or (c) in any classification for the purposes of or in connection with a transaction or shipment in commerce after August 1, 1923, for any person to indicate for any cotton a grade or other class which is of or within the official cotton standards of the United States then in effect under this chapter by a name, description, or designation, or any system of names, description,



or designation not used in said standards: Provided, That nothing in this section shall prevent a transaction otherwise lawful by actual sample or on the basis of a private type which is used in good faith and not in evasion of or substitution for said standards. (Mar. 4, 1923, ch. 288, Sec. 2, 42 Stat. 1517.)

Sec. 53. Licensing classifiers; revocation and suspension of license.

The Secretary of Agriculture may, upon presentation of satisfactory evidence of competency, issue to any person a license to grade or otherwise classify cotton and to certificate the grade or other class thereof in accordance with official cotton standards of the United States. Any such license may be suspended or revoked by the Secretary of Agriculture whenever he is satisfied, after reasonable opportunity afforded to the licensee for a hearing, that such licensee is incompetent or has knowingly or carelessly classified cotton improperly, or has violated any provision of this chapter or the regulations thereunder so far as the same may relate to him, or has used his license or allowed it to be used for any improper purpose. Pending investigation the Secretary of Agriculture, whenever he deems necessary, may suspend a license temporarily without a hearing. (Mar. 4, 1923, ch. 288, Sec. 3, 42 Stat. 1517.)

Sec. 54. Classification by Department of Agriculture; certification thereof; effect of certificate; regulations for classification.

Any person who has custody of or a financial interest in any cotton may submit the same or samples thereof, drawn in accordance with the regulations of the Secretary of Agriculture, to such officer or officers of the Department of Agriculture, as may be designated for the purpose pursuant to the regulations of the Secretary of Agriculture for a determination of the true classification of such cotton or samples, including the comparison thereof, if requested, with types or other samples submitted for the purpose. The final certificate of the Department of Agriculture showing such determination shall be binding on officers of the United States and shall be accepted in the courts of the United States as prima facie evidence of the true classification or comparison of such cotton or samples when involved in any transaction or shipment in commerce. The Secretary of Agriculture shall fix rules and regulations for submitting samples of cotton for classification providing that all samples shall be numbered so that no one interested in the transaction involved shall be known by any classifier engaged in the classification of such cotton samples. (Mar. 4, 1923, ch 288, Sec. 4, 42 Stat. 1517.)

Sec. 55. Charges for licenses and classifications; disposition of moneys.

The Secretary of Agriculture may cause to be collected such charges as he may find to be reasonable for licenses issued to classifiers of cotton under section 53 of this title and for determinations made under section 54 of this title, and the amounts so collected shall be used by the Secretary of Agriculture in paying expenses of the Department of Agriculture connected therewith. (Mar. 4, 1923, ch. 288, Sec. 5, 42 Stat. 1518.)

*Appropriation Account*

*Effective July 1, 1935, the appropriation account for expenses provided for in this chapter was abolished by act June 26, 1934, ch. 756, Sec. 5, 48 Stat. 1228. See section 725d (b) of Title 31, Money and Finance.*

**Sec. 56. Establishment of cotton standards; furnishing copies of established standards sold.**

The Secretary of Agriculture is authorized to establish from time to time standards for the classification of cotton by which its quality or value may be judged or determined for commercial purposes, which shall be known as the official cotton standards of the United States. Any such standard or change or replacement thereof shall become effective only on and after a date specified in the order of the Secretary of Agriculture establishing the same, which date shall be not less than one year after the date of such order: Provided, That the official cotton standards established, effective August 1, 1923, under the United States Cotton Futures Act shall be at the same time the official cotton standards for the purpose of this chapter unless and until changed or replaced under this chapter. Whenever any standard or change or replacement thereof shall become effective under this chapter, it shall also, when so specified in the order of the Secretary of Agriculture, become effective for the purposes of the United States Cotton Futures Act and supersede any inconsistent standard established under said Act. Whenever the official cotton standards of the United States established under this chapter shall be represented by practical forms, the Department of Agriculture shall furnish copies thereof, upon request, to any person, and the cost thereof, as determined by the Secretary of Agriculture, shall be paid by the person making the request. The Secretary of Agriculture may cause such copies to be certified under the seal of the Department of Agriculture and may attach such conditions to the purchase and use thereof, including provision for the inspection, condemnation, and exchange thereof by duly authorized representatives of the Department of Agriculture, as he may find to be necessary to the proper application of the official cotton standards of the United States. (Mar. 4, 1923, ch. 288, Sec. 6, 42 Stat. 1518, renumbered Sec. 6 (a), Sept. 21, 1944, ch. 412, Sec. 401 (b), 58 Stat. 738.)

*Codification*

*Section is composed of the first five sentences of subsection (a) of section 6 of act Mar. 4, 1923, as renumbered by section 401 (b), of act Sept. 21, 1944. Last sentence of said subsection (a) is set out as section 57 of this title. Subsection (b) is set out as section 57a of this title.*

**Sec. 57. Disposition of proceeds of sale of cotton and of copies of standards.**

Any moneys received from or in connection with the sale of cotton purchased for the preparation of the copies, mentioned in section 56 of this title and condemned as unsuitable for such use or with the sale of such copies may be expended for the purchase of other cotton for such use. (Mar. 4, 1923, ch. 288, Sec. 6, 42



Stat. 1518, renumbered Sec. 6 (a), Sept. 21, 1944, ch. 412, Sec. 401 (b), 58 Stat. 738.)

*Codification*

*Section is composed of the last sentence of subsection (a) of section 6 of act Mar. 4, 1923, as renumbered by section 401 (b) of act Sept. 21, 1944. First five sentences of said subsection (a) are set out as section 56 of this title. Subsection (b) is set out as section 57a of this title.*

**Sec. 57a. Agreements with cotton associations, etc., in foreign countries to establish cotton standards.**

The Secretary of Agriculture is authorized to effectuate agreements with cotton associations, cotton exchanges, and other cotton organizations in foreign countries, for (1) the adoption, use, and observance of universal standards of cotton classification, (2) the arbitration or settlement of disputes with respect thereto, and (3) the preparation, distribution, inspection, and protection of the practical forms or copies thereof under such agreements. (Mar. 4, 1923, ch. 288, Sec. 6 (b), as added Sept. 21, 1944, ch. 412, title IV, Sec. 401 (b), 58 Stat. 738.)

*Codification*

*Section was enacted as subsection (b) of section 6 of act Mar. 4, 1923, by act Sept. 21, 1944, Sec. 401 (b). Subsection (a) of said section 6 is classified to sections 56 and 57 of this title.*

**Sec. 58. General Inspection and sampling of cotton**

In order to carry out the provisions of this chapter, the Secretary of Agriculture is authorized to cause the inspection, including the sampling, of any cotton involved in any transaction or shipment in commerce, wherever such cotton may be found, or of any cotton with respect to which a determination of the true classification is requested under section 54 of this title. (Mar. 4, 1923, ch. 288, Sec. 7, 42 Stat. 1518.)

**Sec. 59. Offenses in relation to cotton standards.**

It shall be unlawful for any person (a) with intent to deceive or defraud, to make, receive, use, or have in his possession any simulate or counterfeit practical form or copy of any standard or part thereof established under this chapter; or (b) without the written authority of the Secretary of Agriculture, to make, alter, tamper with, or in any respect change any practical form or copy of any standard established under this chapter; or (c) to display or use any such practical form or copy after the Secretary of Agriculture shall have caused it to be condemned. (Mar. 4, 1923, ch. 288, Sec. 8, 42 Stat. 1519.)

**Sec. 60. Penalties for violations.**

(a) Any person who shall knowingly violate any provision of sections 52 or 59 of this title, or (b) any person licensed under this chapter who, for the purposes of or in connection with any transaction or shipment in commerce, shall knowingly classify

cotton improperly, or shall knowingly falsify or forge any certificate of classification, or shall accept money or other consideration, either directly or indirectly, for any neglect or improper performance of duty as such licensee, or (c) any person who shall knowingly influence improperly or attempt to influence improperly any person licensed under this chapter in the performance of his duties as such licensee relating to any transaction or shipment in commerce, or (d) any person who shall forcibly assault, resist, impede, or interfere with or influence improperly or attempt to influence improperly any person employed under this chapter in the performance of his duties, shall, upon conviction thereof, be deemed guilty of a misdemeanor and shall be fined not exceeding \$1000, or imprisoned not exceeding six months, or both, in the discretion of the court. (Mar. 4, 1923, ch. 288, Sec. 9, 42 Stat. 1519.)

Sec. 61. General regulations, investigations, tests, etc., by Secretary.

For the purposes of this chapter the Secretary of Agriculture shall cause to be promulgated such regulations, may cause such investigations, tests, demonstrations, and publications to be made, including the investigation and determination of some practical method whereby repeated and unnecessary sampling and classification of cotton may be avoided, and may cooperate with any department or agency of the Government, any State, Territory, District, or possession, or department, agency, or political subdivision thereof, or any person, as he shall find to be necessary. (Mar. 4, 1923, ch. 288, Sec. 10, 42 Stat. 1519.)

Sec. 62. Definitions.

Wherever used in this chapter, (a) the word "person" imports the plural or the singular, as the case demands, and includes an individual, a partnership, a corporation, or two or more persons having a joint or common interest; (b) the word "commerce" means commerce between any State or the District of Columbia and any place outside thereof, or between points within the same State or the District of Columbia but through any place outside thereof, or within the District of Columbia; and (c) the word "cotton" means cotton of any variety produced within the continental United States, including linters. (Mar. 4, 1923, ch. 288, Sec. 11, 42 Stat. 1519.)

*Codification*

*Section is composed of the first sentence of section 11 of act Mar. 4, 1923. The remainder of said section 11 is contained in section 63 of this title.*

Sec. 63. Liability of principal for act of agent.

When construing and enforcing the provisions of this chapter, the act, omission, or failure of any agent, officer, or other person acting for or employed by any person, within the scope of his employment or office, shall in every case be deemed also the act, omission, or failure of such person as well as that of such agent, officer, or other person. (Mar. 4, 1923, ch. 288, Sec. 11, 42 Stat. 1519.)



*Codification*

*Section is composed of the second sentence of section 11 of act Mar. 4, 1923. The first sentence of said section 11 is contained in section 62 of this title.*

**Sec. 64. Appropriation for expenses; appointment by Secretary of officers and agents; compensation.**

There are authorized to be appropriated out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary for carrying out the provisions of this chapter; and the Secretary of Agriculture is authorized, within the limits of such appropriations, to appoint, remove, and fix the compensations of such officers and employees, not in conflict with existing law, and make such expenditures for rent outside the District of Columbia, printing, telegrams, telephones, law books, books of reference, periodicals, furniture, stationery, office equipment, travel, and other supplies and expenses as shall be necessary to the administration of this chapter in the District of Columbia and elsewhere. (Mar. 4, 1923, ch. 288, Sec. 12, 42 Stat. 1519.)

**Sec. 65. Separability of provisions.**

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the chapter and the application of such provision to other persons and circumstances shall not be affected thereby. (Mar. 4, 1923, ch. 288, Sec. 13, 42 Stat. 1520.)

